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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 SANTOS DIAZ,  
12 Inmate Booking No. A090059312,  
13 Plaintiff,

14 vs.

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16 SIX UNKNOWN NAMES AGENTS;  
17 BARACK OBAMA,  
18 Defendants.  
19

Civil 14cv0920 GPC (NLS)  
No.

**ORDER DISMISSING CIVIL  
ACTION WITHOUT PREJUDICE  
FOR FAILING TO PAY  
FILING FEES REQUIRED  
BY 28 U.S.C. § 1914(a) AND/OR  
FAILING TO MOVE TO  
PROCEED IN FORMA PAUPERIS  
PURSUANT TO 28 U.S.C. § 1915(a)**

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24 Plaintiff, currently detained at the Etowah County Detention Center in Gadsden,  
25 Alabama, and proceeding pro se, filed a one-page complaint entitled “Civil Rights  
26 Action with the Writ of Summons and Complaint” “under 42 U.S.C. § 1983” on April  
27 15, 2014 (ECF Doc. No. 1).

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**I. FAILURE TO PAY FILING FEE OR REQUEST IFP STATUS**

All parties instituting any civil action, suit or proceeding in any district court of the United States, except an application for writ of habeas corpus, must pay a filing fee of \$400. See 28 U.S.C. § 1914(a).<sup>1</sup> An action may proceed despite a party's failure to pay this filing fee only if the party is granted leave to proceed in forma pauperis ("IFP") pursuant to 28 U.S.C. § 1915(a). See Andrews v. Cervantes, 493 F.3d 1047, 1051 (9th Cir. 2007); Rodriguez v. Cook, 169 F.3d 1176, 1177 (9th Cir. 1999).

Plaintiff has not prepaid the \$400 in filing and administrative fees required to commence a civil action, nor has he submitted a Motion to Proceed IFP pursuant to 28 U.S.C. § 1915(a). Therefore, the case cannot yet proceed. See 28 U.S.C. § 1914(a); Andrews, 493 F.3d at 1051.

**II. CONCLUSION AND ORDER**

For the reasons set forth above, the Court hereby:

(1) **DISMISSES** this action sua sponte without prejudice for failing to pay the \$400 civil filing and administrative fee or submit a Motion to Proceed IFP pursuant to 28 U.S.C. § 1914(a) and § 1915(a); and

(2) **GRANTS** Plaintiff **forty five (45)** days leave from the date this Order is filed to: (a) prepay the entire \$400 civil filing and administrative fee in full; *or* (b) complete and file a Motion to Proceed IFP which includes a certified copy of his trust account statement for the 6-month period preceding the filing of his Complaint. See 28 U.S.C. § 1915(a)(2); S.D. CAL. CIVLR 3.2(b).


**IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff with this Court's approved form "Motion and Declaration in Support of Motion to Proceed In Forma Pauperis." If Plaintiff fails to either prepay the \$400 civil filing fee

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<sup>1</sup> In addition to the \$350 statutory fee, all parties filing civil actions on or after May 1, 2013, must pay an additional administrative fee of \$50. See 28 U.S.C. § 1914(a), (b); Judicial Conference Schedule of Fees, District Court Misc. Fee Schedule, eff. May 1, 2013. However, the additional \$50 administrative fee is waived if the plaintiff is granted leave to proceed IFP. Id.

1 or complete and submit the enclosed Motion to Proceed IFP within that time, this action  
2 shall remain dismissed without prejudice and without further Order of the Court.

3 DATED: June 3, 2014

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5 HON. GONZALO P. CURIEL  
6 United States District Judge  
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